

Application No.: 10/826,866  
Office Action Dated: February 9, 2006  
Response to Office Action Dated: May 9, 2006

REMARKS

Claims 1-26 were pending prior to filing this Response. Claims 7 and 19 are being canceled. Claims 1-6, 8-18 and 20-26 are being amended. Therefore, claims 1-6, 8-18 and 20-26 remain for consideration.

The claims are objected to for not being properly numbered. The claims are being presented in this Response now to include the proper numbering. It is therefore respectfully submitted that the objection to the claim numbering is overcome.

Claims 1-26 are rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. The Examiner states that the claims are in narrative form and include punctuation and grammatical errors. The claims are being amended herein to place the claims in proper format and to correct any errors in punctuation and grammar. It is therefore respectfully submitted that the § 112, second paragraph rejection is overcome.

Claims 1-26 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Beane et al. (U.S. Patent Application Publication No. 2002/0022762). The rejection is traversed and reconsideration is respectfully requested, particularly in view of the clarifying amendments to the claims.

Beane et al. is directed to a lens warming and clearing device for use with an optical instrument having a lens portion. The device comprises a heat-conducting tube sized and shaped to receive the lens portion of the optical instrument. A heating element is thermally coupled to the tube. A clearing member is disposed within the tube such that when the lens portion of the optical instrument is inserted into the tube, the lens portion contacts the cleaning member. The heating element as shown in the embodiments is a heating pad which includes a flexible, air-permeable outer bag that encases a chemical mixture. The chemical mixture, when activated, generates an exothermic reaction. The chemical mixture can be, e.g., a mixture of

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iron powder, water, cellulose, vermiculite, activated carbon, and salt. Exposing the mixture to atmospheric oxygen triggers an exothermic reaction that warms the pad.

Beane et al. does not teach or suggest an apparatus for heating or defogging a scope wherein the apparatus includes a self-sealing mechanism in an inlet for preventing a defogging solution from spilling out of the inlet, as is generally recited in independent claims 1, 3, 16-18 and 20-26. This is not surprising since Beane et al. teaches a saline solution retained in a sponge. Moreover, Beane et al. does not teach or suggest an apparatus for heating or defogging a scope, wherein the apparatus includes breachable membranes separating chambers containing reactants configured such that when the membranes are breached permit the reactants to mix and generate a sustained exothermic reaction for heating a defogging solution and a scope when submerged in the defogging solution, as is generally recited in independent claims 5, 16-18 and 20-25. Rather, Beane et al. shows a heating pad which generates an exothermic reaction when exposed to atmospheric oxygen. Furthermore, Beane et al. does not teach or suggest an apparatus for heating or defogging a scope, wherein the apparatus includes a defogging solution or other fluid disposed within a hollow receptacle or reservoir configured for allowing an instrument to be submerged in and heated via the fluid, as is generally recited in independent claims 5, 16-18 and 20-25. Rather, Beane et al. shows a sponge upon which an instrument merely abuts against for cleaning and heating.

For an anticipation rejection to be appropriate, each and every element or limitation in a rejected claim must be shown in a single prior art reference used in the claim rejection. Because Beane et al. does not teach or suggest an apparatus for heating or defogging a scope including a self-sealing mechanism and/or breachable membranes, as well as a receptacle or reservoir filled with fluid and configured for receiving and submerging an instrument for heating the instrument via the fluid, as is generally recited in independent claims 1, 3, 5, 16-18 and 20-26, it cannot be maintained that Beane et al. anticipates these independent claims. Moreover,

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because claims 2, 4, 6 and 8-15 each ultimately depend from and thereby incorporate the limitations of one of the independent claims, these dependent claims are not anticipated by Beane et al. for at least the reasons set forth for the independent claims.

In view of the foregoing, it is respectfully submitted that claims 1-6, 8-18 and 20-26 are in condition for allowance. All issues raised by the Examiner having been addressed, an early action to that effect is earnestly solicited.

No fees or deficiencies in fees are believed to be owed. However, authorization is hereby given to charge our Deposit Account No. 13-0235 in the event any such fees are owed.

Respectfully submitted,

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